

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN ASSEMBLY MAY 26, 2005

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 576**

**Introduced by Assembly Member Wolk**

February 16, 2005

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An act to amend Sections 120440 and 120475 of the Health and Safety Code, relating to immunizations.

### LEGISLATIVE COUNSEL'S DIGEST

AB 576, as amended, Wolk. Immunizations.

Existing law regulates the sharing of a patient's or client's immunization information between a health care provider, local health department, the department, and other agencies. Existing law prescribes the process by which a patient or client, or parent or guardian of a patient or client, may refuse to allow the information to be shared.

This bill would allow the patient's or client's physician, local health departments, and the department to maintain access to this information for the purpose of patient care or protecting the public health after the patient or client, or parent or guardian of a patient or client, refuses the sharing of the information. The bill would also allow local health departments and the department to share the name of a patient or client, or parent or guardian of a patient or client, with a state, local health department, health care provider, immunization information system, or any representative of an entity designated by federal or state law to receive this information, unless the patient or client, or

parent or guardian of the patient or client, refuses to allow the information to be shared.

Existing law requires the State Department of Health Services to submit a biennial report to the Legislature on the immunization levels of children in the state, steps taken to increase immunization levels and immunization education, and recommendations of a strategy and the funding that would be necessary to immunize all children in the state.

This bill would require the department to submit the biennial report on March 1, rather than March 15.

*This bill would also state the intent of the Legislature to ensure the full funding of the California State Immunization Information System by the 2007-08 fiscal year and each year thereafter, for the health and well-being of California's children and all other citizens.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. *It is the intent of the Legislature to ensure the*  
2 *full funding, through the annual budget or another measure, of*  
3 *the California State Immunization System by the 2007–08 fiscal*  
4 *year and each year thereafter, for the health and well-being of*  
5 *California's children and all other citizens.*

6     SEC. 2. *It is the intent of the Legislature that future funding*  
7 *for the California State Immunization System shall be included in*  
8 *the following line item as part of the State Department of Health*  
9 *Services' budget for Local Assistance: 4260-111-0001 (6)*  
10 *Communicable Disease Control.*

11     ~~SECTION 1.~~

12     SEC. 3. Section 120440 of the Health and Safety Code is  
13 amended to read:

14     120440. (a) For the purposes of this chapter, the following  
15 definitions shall apply:

16     (1) "Health care provider" means any person licensed pursuant  
17 to Division 2 (commencing with Section 500) of the Business  
18 and Professions Code or a clinic or health facility licensed  
19 pursuant to Division 2 (commencing with Section 1200).

20     (2) "Schools, child care facilities, and family child care  
21 homes" means those institutions referred to in subdivision (b) of

1 Section 120335, regardless of whether they directly provide  
2 immunizations to patients or clients.

3 (3) “WIC service provider” means any public or private  
4 nonprofit agency contracting with the department to provide  
5 services under the California Special Supplemental Food  
6 Program for Women, Infants, and Children, as provided for in  
7 Article 2 (commencing with Section 123275) of Chapter 1 of  
8 Part 2 of Division 106.

9 (4) “Health care plan” means a health care service plan as  
10 defined in subdivision (f) of Section 1345, a government-funded  
11 program the purpose of which is paying the costs of health care,  
12 or an insurer as described in Sections 10123.5 and 10123.55 of  
13 the Insurance Code, regardless of whether the plan directly  
14 provides immunizations to patients or clients.

15 (5) “County welfare department” means a county welfare  
16 agency administering the California Work Opportunity and  
17 Responsibility to Kids (CalWORKs) program, pursuant to  
18 Chapter 2 (commencing with Section 11200.5) of Part 3 of  
19 Division 9 of the Welfare and Institutions Code.

20 (6) “Foster care agency” means any of the county and state  
21 social services agencies providing foster care services in  
22 California.

23 (b) (1) Local health officers may operate immunization  
24 information systems pursuant to their authority under Section  
25 120175, in conjunction with the Immunization Branch of the  
26 State Department of Health Services. Local health officers and  
27 the State Department of Health Services may operate these  
28 systems in either or both of the following manners:

29 (A) Separately within their individual jurisdictions.

30 (B) Jointly among more than one jurisdiction.

31 (2) Nothing in this subdivision shall preclude local health  
32 officers from sharing the information set forth in paragraphs (1)  
33 to (9), inclusive, of subdivision (c) with other health officers  
34 jointly operating the system.

35 (c) Notwithstanding Sections 49075 and 49076 of the  
36 Education Code, Chapter 5 (commencing with Section 10850) of  
37 Part 2 of Division 9 of the Welfare and Institutions Code, or any  
38 other provision of law, unless a refusal to permit recordsharing is  
39 made pursuant to subdivision (e), health care providers, and other  
40 agencies, including, but not limited to, schools, child care

1 facilities, service providers for the California Special  
2 Supplemental Food Program for Women, Infants, and Children  
3 (WIC), health care plans, foster care agencies, and county  
4 welfare departments, may disclose the information set forth in  
5 paragraphs (1) to (9), inclusive, from the patient's medical  
6 record, or the client's record, to local health departments  
7 operating countywide or regional immunization information and  
8 reminder systems and the State Department of Health Services.  
9 Local health departments and the State Department of Health  
10 Services may disclose the information set forth in paragraphs (1)  
11 to (9), inclusive, to each other, and upon a request for  
12 information pertaining to a specific person, to health care  
13 providers taking care of the patient. Local health departments and  
14 the State Department of Health Services may disclose the  
15 information in paragraphs (1) to (6), inclusive, and paragraphs  
16 (8) and (9), to schools, child care facilities, county welfare  
17 departments, and family child care homes to which the person is  
18 being admitted or in attendance, foster care agencies in assessing  
19 and providing medical care for children in foster care, and WIC  
20 service providers providing services to the person, health care  
21 plans arranging for immunization services for the patient, and  
22 county welfare departments assessing immunization histories of  
23 dependents of CalWORKs participants, upon request for  
24 information pertaining to a specific person. Determination of  
25 benefits based upon immunization of a dependent CalWORKs  
26 participant shall be made pursuant to Section 11265.8 of the  
27 Welfare and Institutions Code. The following information shall  
28 be subject to this subdivision:

- 29 (1) The name of the patient or client and names of the parents  
30 or guardians of the patient or client.
- 31 (2) Date of birth of the patient or client.
- 32 (3) Types and dates of immunizations received by the patient  
33 or client.
- 34 (4) Manufacturer and lot number for each immunization  
35 received.
- 36 (5) Adverse reaction to immunizations received.
- 37 (6) Other nonmedical information necessary to establish the  
38 patient's or client's unique identity and record.
- 39 (7) Current address and telephone number of the patient or  
40 client and the parents or guardians of the patient or client.

1 (8) Patient's or client's gender.

2 (9) Patient's or client's place of birth.

3 (d) (1) Health care providers, local health departments, and  
4 the State Department of Health Services shall maintain the  
5 confidentiality of information listed in subdivision (c) in the  
6 same manner as other medical record information with patient  
7 identification that they possess. These providers, departments,  
8 and contracting agencies are subject to civil action and criminal  
9 penalties for the wrongful disclosure of the information listed in  
10 subdivision (c), in accordance with existing law. They shall use  
11 the information listed in subdivision (c) only for the following  
12 purposes:

13 (A) To provide immunization services to the patient or client,  
14 including issuing reminder notifications to patients or clients or  
15 their parents or guardians when immunizations are due.

16 (B) To provide or facilitate provision of third-party payer  
17 payments for immunizations.

18 (C) To compile and disseminate statistical information of  
19 immunization status on groups of patients or clients or  
20 populations in California, without identifying information for  
21 these patients or clients included in these groups or populations.

22 (D) In the case of health care providers only, as authorized by  
23 Part 2.6 (commencing with Section 56) of Division 1 of the Civil  
24 Code.

25 (2) Schools, child care facilities, family child care homes,  
26 WIC service providers, foster care agencies, county welfare  
27 departments, and health care plans shall maintain the  
28 confidentiality of information listed in subdivision (c) in the  
29 same manner as other client, patient, and pupil information that  
30 they possess. These institutions and providers are subject to civil  
31 action and criminal penalties for the wrongful disclosure of the  
32 information listed in subdivision (c), in accordance with existing  
33 law. They shall use the information listed in subdivision (c) only  
34 for those purposes provided in subparagraphs (A) to (D),  
35 inclusive, of paragraph (1) and as follows:

36 (A) In the case of schools, child care facilities, family child  
37 care homes, and county welfare departments, to carry out their  
38 responsibilities regarding required immunization for attendance  
39 or participation benefits, or both, as described in Chapter 1

1 (commencing with Section 120325), and in Section 11265.8 of  
2 the Welfare and Institutions Code.

3 (B) In the case of WIC service providers, to perform  
4 immunization status assessments of clients and to refer those  
5 clients found to be due or overdue for immunizations to health  
6 care providers.

7 (C) In the case of health care plans, to facilitate payments to  
8 health care providers, to assess the immunization status of their  
9 clients, and to tabulate statistical information on the  
10 immunization status of groups of patients, without including  
11 patient-identifying information in these tabulations.

12 (D) In the case of foster care agencies, to perform  
13 immunization status assessments of foster children and to assist  
14 those foster children found to be due or overdue for  
15 immunization in obtaining immunizations from health care  
16 providers.

17 (e) A patient or a patient's parent or guardian may refuse to  
18 permit recordsharing. The health care provider administering  
19 immunization and any other agency possessing any patient or  
20 client information listed in subdivision (c), if planning to provide  
21 patient or client information to an immunization system, as  
22 described in subdivision (b), shall inform the patient or client, or  
23 the parent or guardian of the patient or client, of the following:

24 (1) The information listed in subdivision (c) may be shared  
25 with local health departments, and the State Department of  
26 Health Services. The health care provider or other agency shall  
27 provide the name and address of the State Department of Health  
28 Services and of the immunization registry with which the  
29 provider or other agency will share the information.

30 (2) Any of the information shared with local health  
31 departments and the State Department of Health Services shall be  
32 treated as confidential medical information and shall be used  
33 only to share with each other, and, upon request, with health care  
34 providers, schools, child care facilities, family child care homes,  
35 WIC service providers, county welfare departments, foster care  
36 agencies, and health care plans. These providers, agencies, and  
37 institutions shall, in turn, treat the shared information as  
38 confidential, and shall use it only as described in subdivision (d).

1 (3) The patient or client, or parent or guardian of the patient or  
2 client, has the right to examine any immunization-related  
3 information shared in this manner and to correct any errors in it.

4 (4) The patient or client, or the parent or guardian of the  
5 patient or client, may refuse to allow this information to be  
6 shared in the manner described, or to receive immunization  
7 reminder notifications at any time, or both. After refusal, the  
8 patient or client's physician, local health departments, and the  
9 State Department of Health Services may maintain access to this  
10 information for the purposes of patient care or protecting the  
11 public health.

12 (f) (1) The health care provider administering the  
13 immunization and any other agency possessing any patient or  
14 client information listed in subdivision (c), may inform the  
15 patient or client, or the parent or guardian of the patient or client,  
16 by ordinary mail, of the information in paragraphs (1) to (4),  
17 inclusive, of subdivision (e). The mailing must include a  
18 reasonable means for refusal, such as a return form or contact  
19 telephone number.

20 (2) The information in paragraphs (1) to (4) of subdivision (e)  
21 may also be presented to the parent or guardian of the patient or  
22 client during any hospitalization of the patient or client.

23 (g) If the patient or client, or parent or guardian of the patient  
24 or client, refuses to allow the information to be shared, pursuant  
25 to paragraph (4) of subdivision (e), the health care provider or  
26 other agency may not share this information in the manner  
27 described in subdivision (c), except as provided in subparagraph  
28 (D) of paragraph (1) of subdivision (d).

29 (h) (1) Upon request of the patient or client, or the parent or  
30 guardian of the patient or client, in writing or by other means  
31 acceptable to the recipient, a local health department or the State  
32 Department of Health Services that has received information  
33 about a person pursuant to subdivision (c) shall do all of the  
34 following:

35 (A) Provide the name and address of other persons or agencies  
36 with whom the recipient has shared the information.

37 (B) Stop sharing the information in its possession after the  
38 date of the receipt of the request.

39 (2) After refusal, the patient or client's physician, local health  
40 departments, and the State Department of Health Services may

1 maintain access to this information for the purposes of patient  
2 care or protecting the public health.

3 (i) Upon notification, in writing or by other means acceptable  
4 to the recipient, of an error in the information, a local health  
5 department or the State Department of Health Services that has  
6 information about a person pursuant to subdivision (c) shall  
7 correct the error. If the recipient is aware of a disagreement about  
8 whether an error exists, information to that effect may be  
9 included.

10 (j) (1) Any party authorized to make medical decisions for a  
11 patient or client, including, but not limited to, those authorized by  
12 Section 6922, 6926, or 6927 of, Part 1.5 (commencing with  
13 Section 6550), Chapter 2 (commencing with Section 6910) of  
14 Part 4, or Chapter 1 (commencing with Section 7000) of Part 6,  
15 of Division 11 of, the Family Code, Section 1530.6 of the Health  
16 and Safety Code, or Sections 727 and 1755.3 of, and Article 6  
17 (commencing with Section 300) of Chapter 2 of Part 1 of  
18 Division 2 of, the Welfare and Institutions Code, may permit  
19 sharing of the patient's or client's record with any of the  
20 immunization information systems authorized by this section.

21 (2) For a patient or client who is a dependent of a juvenile  
22 court, the court or a person or agency designated by the court  
23 may permit this recordsharing.

24 (3) For a patient or client receiving foster care, a person or  
25 persons licensed to provide residential foster care, or having legal  
26 custody, may permit this recordsharing.

27 (k) For purposes of supporting immunization information  
28 systems, the State Department of Health Services shall assist its  
29 Immunization Branch in both of the following:

30 (1) The provision of department records containing  
31 information about publicly funded immunizations.

32 (2) Supporting efforts for the reporting of publicly funded  
33 immunizations into immunization information systems by health  
34 care providers and health care plans.

35 (l) Local health departments and the State Department of  
36 Health Services may share the information listed in subdivision  
37 (c) with a state, local health departments, health care providers,  
38 immunization information systems, or any representative of an  
39 entity designated by federal or state law or regulation to receive  
40 this information. The State Department of Health Services may



1 enter into agreements to exchange confidential immunization  
2 information with other states. Information may not be shared  
3 pursuant to this subdivision if a patient or client, or parent or  
4 guardian of a patient or client, refuses to allow the sharing of  
5 immunization information pursuant to subdivision (e).

6 (m) Section 120330 shall not apply to this section.

7 ~~SEC. 2.~~

8 *SEC. 4.* Section 120475 of the Health and Safety Code is  
9 amended to read:

10 120475. On or before March 1 on a biennial basis, the  
11 department shall submit a report to the Legislature on all of the  
12 following issues:

13 (a) The immunization status of young children in the state,  
14 based on available data.

15 (b) The steps taken to strengthen immunization efforts,  
16 particularly efforts through the Child Health and Disability  
17 Prevention Program.

18 (c) The steps taken to improve immunization levels among  
19 currently underserved minority children, young children in  
20 family day care and other child care settings, and children with  
21 no health insurance coverage.

22 (d) The improvements made in ongoing methods of  
23 immunization outreach and education in communities where  
24 immunization levels are disproportionately low.

25 (e) Its recommendations for a comprehensive strategy for  
26 fully immunizing all California children and its analysis of the  
27 funding necessary to implement the strategy.